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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,804	03/12/2004	Robert Guadagna	1298-2	8297
28249	7590	01/12/2006		
DILWORTH & BARRESE, LLP 333 EARLE OVINGTON BLVD. UNIONDALE, NY 11553			EXAMINER COLLINS, TIMOTHY D	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 01/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/799,804

Applicant(s)

GUADAGNA, ROBERT

Examiner

Timothy D. Collins

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-9, 11, 12 and 14-16 is/are pending in the application.
- 4a) Of the above claim(s) _ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-9, 11 and 14-16 is/are rejected.
- 7) ☒ Claim(s) 5 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10/27/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

NOTE: While any delay in prosecution is regrettable, upon further review and consideration the previous office action is withdrawn and a new non-final office action is made hereinafter.

Drawings

The drawings filed 10/27/05 have been accepted.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 6-9,11,14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 2442417 (hereinafter called 417) in view of USPN 6241191 (hereinafter called 191) and further in view of USPN 2219500 (hereinafter called 500).

a. Re claim 14, 417 discloses an animal scaring device (the device will inherently scare animals if it moves over their heads) configured to have a shape of a predatory bird (as can be seen in the figure 1, the device is in the shape of a

predatory bird). The device having a body (about 27) and a pair of wings (33 and 34 on figure 1) each of the wings having a ratio of max width to length of between "about .4-.6", as seen in figure 1 at least. Note the term "about" is relative. 417 does not disclose that the device is coupled to a manually operated reel by a central line, however 191 does teach of a manually operated reel as seen in the figure attached to a kite by a central line. Therefore it would have been obvious to one of ordinary skill in the art to have applied the teachings of a reel and central line from 191 into the device of 417 so as to easily wind and unwind kite lines as taught by 191 at least in column 2 at lines 17-21. This would result in the combination of a bird kite with the teaching of a reel being attached for winding and unwinding the kite. 417 as modified however does not disclose that the reel has a central hub and plurality of pins as claimed and outer endless sides, but 500 does teach of these things. 500 teaches of a central hub (5), a plurality of spaced apart pins (all numbers 13, except one of them) each provided with a free end (the end that is attached to outside) and a pair of spaced apart endless sides (numbers 12), the reel being rotatable in opposite directions to modify the length of a line. Therefore it would have been obvious to one of ordinary skill in the art to have applied the teachings of 500 into the device of 417 as modified above, so as allow for a kite reel with the beneficial characteristics of being of large size as well as simple and inexpensive as taught by 500 in column 1 at lines 8-10.

- b. Re claim 15, 417 as modified above discloses that the plurality of pins have a c-shaped cross section (14) bridging the pairs of endless sides with the line (24) being supported by the central portion of the free end of the pins.
- c. Re claim 16, 417 as modified above discloses a handle (the remaining one of the numbers 13 which is not a pin), this handle being rotatable relative to the hub (5). This rotation is seen in that that handle is fixed to the outer spaced apart sides and the hub (5) is seen to be the axel of the reel and therefore the handle must rotate with respect to the axel.
- d. Re claim 6, 417 discloses that the wings have inner side widths (the root where it meets the number 27 approximately) and outer sides (the tip where it is seen as being at the extreme right and left sides of the device. The ratio of inner and outer side ranges between "about" .7-1 as seen in the figure 1. Note the term "about" is relative.
- e. Re claim 7, 417 discloses at least in figure 2 that there are first and second curved regions near the 45 and 46 on the trailing edge and also that there are leading and trailing edges as seen in figure 2 near the 43 and 44 (leading edges) and near the 45 and 46 (trailing edges). Note: these locations show at least small curved regions (or bumps) near the 29 and 30, and large ones near the 17 and 18 as well as near the 41 and 42 on the trailing edge.
- f. Re claim 8, 417 discloses at least in figure 2 that the leading edge has a curved region near the 43 and 44 and that that region is flanked by two side regions, the first and second sides which are seen at about the center of the craft

and the outer edges of the wings of the craft. Note: these locations show at least some curves to the right and left of the numbers 43 and 44.

a. Re claim 9, 417 discloses at least in figure 2 near the numbers 52 and 51 that there are curves with greater than the radius of curvature of the ones on the central region.

g. Re claim 11, 417 discloses that the wings have frames that are formed of a plurality of detachable components (as seen in figure 3, in that the pieces can come apart), also this same figure shows through the same parts that there are a "plurality of sections" formed as one piece, in that the sections are detachable components. As can be seen in the figure 3, the rods which hold the craft together have seams that may be detached. Also as seen in column 2 in lines 40-50 sockets can be seen which allow for disassembly. Also as seen in figure 5, rods 19 and 20 are fit into holes, therefore being removable.

Allowable Subject Matter

3. Claims 5 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record all failed to show either alone and/or in combination a reel device with central hub and angularly spaced pins with free ends and endless sides attached to

the free ends of the pins and a detachable pair of wings coupled to the body (as in claim 5) or a hollow frame coupled to the head and tail portions (as in claim 12).

Response to Arguments

4. Applicant's arguments filed 10/27/05 have been fully considered but they are not persuasive and moot. See new grounds of rejection above.

Conclusion


5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art discloses kites and flying craft.

- a. USPN 664640
- b. USPN 3273821
- c. USPN 975245

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy D. Collins whose telephone number is 571-272-6886. The examiner can normally be reached on M-F, 7:00-3:00, with every other Fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Timothy D. Collins
Patent Examiner
Art Unit 3643